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the judgment attaches only—"to such beneficial interest as the debtor has in the land at the date of the judgment or acquires afterwards, the presence or absence of the mere legal title being immaterial."

And further on, in the same section, it is said:

"Upon like general principles, if there be a resulting or constructive trust, though it be capable of establishment only by parol, judgment creditors of such trustee cannot subject the land, the rule being uniformly applied that only the debtor's beneficial interest in the land may be subjected by his creditors, and in such case the trustee has none, as of course, also, he would not have if the trust were express."

See Barton's Chy. Pr. § 288.

In *Jesser v. Armentrout*, 100 Va. 666, 42 S. E. 681, *Pomeroy's Equity Jurisprudence*, § 1087, is quoted with approval as follows:

"In pursuance of the ancient equitable principle that the beneficial estate follows the consideration, and attaches to the party from whom it comes, the doctrine is settled in England and a great majority of the American states that, where property is purchased and conveyance of the legal title is taken in the name of one person, while the purchase price is paid by another person, a trust results at once in favor of the party who pays the price, and the holder of the legal title becomes a trustee for him."

At the instant the purchase price is paid the resulting trust springs into existence and the holder of the legal title becomes a mere trustee; from which it necessarily follows that a judgment against the trustee does not and cannot bind the beneficial interest.

We are therefore of opinion that there is no error in the decree, which is affirmed.

Affirmed.

BRISTOL DISTRIBUTING CO., Inc., *v.* SOUTHERN EXPRESS CO.

Jan. 12, 1915.

[83 S. E. 1084.]

1. Intoxicating Liquors (§ 132*)—Statutes—Construction.—Pub. Laws N. C. Extra Sess. 1913, c. 201, entitled "An act to prevent the delivery and sale of intoxicants in Mitchell and Avery counties, provided that the place of delivery of intoxicants should be con-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

sidered the place of sale, that the possession of more than one quart of liquor should be prima facie evidence of possession for sale, and that any person bringing intoxicants into the counties to sell contrary to law should be guilty of a crime, does not prevent the importation of intoxicating liquors in those counties for personal use.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. § 141; Dec. Dig. § 132.*]

2. Carriers (§ 39*)—Commerce—Webb-Kenyon Act.—Where the North Carolina statute prohibiting the sale and delivery of intoxicants in certain counties did not prohibit the importation of intoxicants for personal use, an interstate carrier cannot refuse shipments of intoxicants to persons in the counties on the ground that the carriage was forbidden by the Webb-Kenyon Act, March 1, 1913, c. 90, 37 Stat. 699 (U. S. Comp. St. 1913, § 8739), where the liquors were intended for personal use.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 98; Dec. Dig. § 39.*]

Appeal from Corporation Court of Bristol.

Bill by the Bristol Distributing Company against the Southern Express Company. From a decree for defendant, plaintiff appeals. Reversed.

A. Gray Gilmer, of Bristol, for appellant.

Powell, Price & Shelton, of Bristol, for appellee.

BUCHANAN, J. This suit was instituted by the appellant, Bristol Distributing Company, against the Southern Express Company, to compel the latter to receive from the appellant packages containing wines, whiskies, beers, and other liquors for transportation from Bristol to Newland and other mentioned points in the state of North Carolina, and deliver the same at such points to the parties to whom consigned, and to restrain the appellee from refusing to accept such shipments.

Upon a hearing of the cause the relief prayed for was denied, and the appellant's bill dismissed. From that decree this appeal was granted.

Two errors are assigned: The first that the corporation court erred in holding that the act of Congress known as the Webb-Kenyon Law, was constitutional; and, second, if that act be a valid law, the court erred in holding that the statute of the state of North Carolina entitled "An act to prevent the delivery and sale of intoxicating liquors in Mitchell and Avery

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counties" came within the purview of the Webb-Kenyon Law, or, if it did, that the said statute of the state of North Carolina was void because in conflict with the Constitution of the United States.

[1, 2] The statute of the state of North Carolina, the application and validity of which is denied by the plaintiff in error, is as follows, so far as it affects this case:

"An act to prevent the delivery and sale of intoxicating liquors in Mitchell and Avery counties.

"The General Assembly of North Carolina do enact:

"Section 1. That the place of delivery of any spirituous, vinous, malt, or other intoxicating liquors or drink containing alcohol, by whatever name known, within the counties of Mitchell and Avery, shall be construed as the place of sale, and the person, company, firm, or corporation delivering the same in said counties shall be considered the seller thereof, within the meaning of this act, whether he be acting for himself or as the agent of another.

"Sec. 2. That if any person shall keep in his possession liquors to the quantity of more than one quart within either of the said counties, it shall be prima facie evidence of his keeping it for sale within the meaning of this act. * * *

"Sec. 6. That any person, firm, or corporation bringing into the counties of Mitchell and Avery for delivery to any person, corporation, firm or company for gain or profit, to loan or give away liquors, the sale of which is prohibited by this act, shall be guilty of a misdemeanor.

"Sec. 7. That any person, firm, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars or imprisoned not less than thirty days, in the discretion of the court."

Chapter 201, Public Laws, etc., 1913, Extra Session.

At the time the decree complained of was entered and when this appeal was argued, the scope and the validity of that statute had not been passed upon by the Supreme Court of North Carolina. Since then that court, in the case of Southern Express Co. v. City of High Point (N. C.) 83 S. E. 254, has construed a statute of that state which reads as follows:

"That it shall be unlawful for any person * * * firm or corporation to sell * * * or dispose of for gain, or keep for sale * * * within High Point township, any spirituous, vinous, malt or other intoxicating liquors, * * * that any person, * * * firm or corporation bringing into High Point township for delivery to any person or corporation, company or firm, any liquors the sale of which is prohibited by this act,

shall be guilty of a misdemeanor' and 'fined or imprisoned in the discretion of the court.'"

In construing that statute the Supreme Court of North Carolina held that it prohibited any person, firm, or corporation from bringing into and delivering liquor in High Point to be kept for sale; that the statute "is directed solely at the importation of liquor for sale, and not at the importation for personal use, which so far as has been held to be for a lawful purpose." The court said in its opinion that:

"It must be borne in mind that the General Assembly of North Carolina has not up to this time (October 26, 1914) undertaken to prohibit the introduction of liquor into this state for individual consumption. * * * The furthest that the general state law has gone, as affecting an individual who imports liquor for his own use, is to make the possession of more than a certain quantity at one time *prima facie* evidence of a purpose to sell."

In the case under consideration it is agreed that the package of whisky, etc., which the complainant sought to compel the defendant, the Southern Express Company, to carry and deliver were in quantities not exceeding one gallon, and were each for the personal use of the party to whom it was consigned, and that each package had been paid for in full by the consignee prior to the time it was delivered to the appellee for shipment.

It not being a violation of the law of the state of North Carolina for a common carrier to receive, transmit, and deliver liquors to parties in that state for their personal use, such shipments were not prohibited by the Webb-Kenyon Law, for that statute only applies to shipments or transaction made in violation of the law of the state, etc., into which the shipment is made.

It follows from this that the defendant, Southern Express Company, ought to have received, transported, and delivered the packages which it refused to receive, and that the trial court erred in not so holding. The decree complained of must therefore be reversed, and this court will enter such decree as ought to have been entered.